

COUNTY OF SUFFOLK



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DEPARTMENT OF LAW

November 23, 2022

Hon. Joanna Seybert, U.S.D.J.
United States District Court, Eastern District of New York
Long Island Courthouse
100 Federal Plaza
Central Islip, New York 11722

Re: *McCune v. County of Suffolk*
CV14-4431(JS)(GRB)

Dear Judge Seybert:

The Suffolk County Attorney's Office represents defendants in this action pursuant to § 1983. Defendants file this letter in response to the Order to Show Cause issued November 3, 2022.

Respectfully, we submit that there is good cause to not refer this case to mediation. We believe that mediation is highly unlikely to achieve a resolution of this matter. This is an excessive force case based on plaintiff's April 3, 2012 arrest on two counts of assaulting police officers, two counts of possession of a controlled substance (crack cocaine) and resisting arrest. Plaintiff injured two police officers who both required hospital treatment. On December 19, 2014, he pleaded guilty to criminal possession of a controlled substance and resisting arrest. Given plaintiff's criminal and assaultive behavior, and based on the settlement discussion that has occurred between counsel, it is evident that the case cannot be resolved short of trial.

Further, defendants submit that it would be improvident use of public funds to incur costs for a mediation that will, in all likelihood, be unsuccessful.

We thank the Court for its time and attention to this case.

Respectfully submitted,
Dennis M. Cohen
Suffolk County Attorney

/s/ Arlene S. Zwilling

By: Arlene S. Zwilling
Assistant County Attorney

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